

SUPERIOR COURT OF CALIFORNIA

County of San Diego

DATE: July 31, 2006 DEPT. 71 REPORTER A: CSR#

PRESENT HON. RONALD S. PRAGER REPORTER B: CSR#

JUDGE

CLERK: K. Sandoval

**BAILIFF: REPORTER'S ADDRESS: P.O. BOX 120128
SAN DIEGO, CA 92112-4104**

MINUTE ORDER

IN RE: JCCP 4221/4224/4226&4428 – Natural Gas Anti-Trust Cases (Price Indexing)

The attached Court's ruling regarding **INDEPENDENT PLAINTIFFS MOTION FOR PERMISSION TO FILE OPPOSITION** applies to all cases listed as follows:

4221-00022	COUNTY OF SANTA CLARA vs SEMPRA ENERGY
4221-00023	CITY AND COUNTY OF SAN FRANCISCO vs SEMPRA ENERGY
4221-00024	COUNTY OF SAN DIEGO vs SEMPRA ENERGY
4221-00026	CITY OF SAN DIEGO vs SEMPRA ENERGY
4221-00027	TAMCO vs DYNEGY INC
4221-00033	COUNTY OF ALAMEDA vs SEMPRA ENERGY
4221-00034	THE REGENTS OF THE UNIVERSITY OF CALIFORNIA vs RELIANT ENERGY SERVICES INC
4221-00035	SCHOOL PROJECT FOR UTILITY RATE REDUCTION vs SEMPRA ENERGY
4221-00037	OWENS-BROCKWAY GLASS CONTAINER INC vs SEMPRA ENERGY
4221-00040	SACRAMENTO MUNICIPAL UTILITY DISTRICT vs RELIANT ENERGY SERVICES INC
4221-00043	NURSERYMAN'S EXCHANGE OF HALF MOON BAY vs SEMPRA ENERGY
4221-00046	PABCO BUILDING PRODUCTS vs DYNEGY INC
4221-00047	BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY vs DYNEGY INC

Independent Plaintiffs' Motion for Permission to File Opposition Brief to CMS Defendant's

Motion to Quash for Lack of Personal Jurisdiction is granted.

The court finds the Independent Plaintiffs failed to file an opposition to quash based upon mistake, inadvertence and/or excusable neglect. Under CCP section 473(b), a court may relieve a party from dismissal taken against the party based upon “mistake, inadvertence, surprise or excusable neglect.” In this case, the excusable neglect lies in the lack of or mis- communication between Class counsel and counsel for the Independent Plaintiffs. (Himmelstein Dec. ¶4; Fineman Dec. ¶¶ 4 & 5.) Counsel for Independent Plaintiffs was not informed until after the due date for the opposition Class counsel intended to dismiss CMS. Finally, the court does not find there was unreasonable delay by the Independent Plaintiffs in seeking relief.

The Independent Plaintiffs’ opposition to the CMS Defendant’s Motion to Quash for Lack of Personal Jurisdiction is deemed filed.

The parties are to arrange a conference call between attorneys for both sides and with the Court by August 3, 2006 to set a filing date for reply brief and a date for hearing on the motion to quash.